

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HTC CORPORATION,

Plaintiff,

v.

APPLE INC.,

Defendant.

C.A. No. 11-715-GMS

**PLAINTIFF HTC CORPORATION’S NOTICE OF DISMISSAL WITHOUT
PREJUDICE PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 41(a)(1)(A)(i)**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), plaintiff HTC Corporation (“HTC”) files this notice of dismissal of the above-captioned action WITHOUT PREJUDICE.

Prior to HTC’s filing of this notice of dismissal, defendant Apple Inc. (“Apple”) did not serve either an answer or a motion for summary judgment in the above-captioned action. Rather, Apple elected to stay this action under 28 U.S.C. § 1659. Under these circumstances, HTC is entitled under Rule 41(a)(1)(A)(i) to dismiss the above-captioned action, without prejudice, upon notice and without a court order. *RFR Industries Inc. v. Century Steps Inc.*, 477 F.3d 1348 (Fed. Cir. 2007) (dismissing upon notice: “So long as a plaintiff has not been served with an answer or a motion for summary judgment, the plaintiff need do no more than file a notice of dismissal to dismiss the case.”).

YOUNG CONAWAY STARGATT & TAYLOR LLP

/s/ Karen L. Pascale

November 14, 2012

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CERTIFICATE OF SERVICE

I, Karen L. Pascale, Esquire, hereby certify that on November 14, 2012, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF (which will send notification that such filing is available for viewing and downloading to all registered counsel), and in addition caused true and correct copies of the foregoing document to be served upon the following counsel of record in the manner indicated::

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